

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Arron King,

Civ. No. 24-2432 (JWB/JFD)

Plaintiff,

v.

Bellinger, *Officer DOC*,

Defendant.

**ORDER ACCEPTING REPORT
AND RECOMMENDATION OF
MAGISTRATE JUDGE**

Arron King, pro se Plaintiff.

On June 24, 2024, Plaintiff Arron King filed a Complaint alleging he was forced to do pushups in the nude with 16 other inmates, as well as suffered other forms of sexual harassment, at Minnesota Correctional Facility-Willow River. (Doc. No. 1.) Magistrate Judge John F. Docherty directed King to either pay the necessary filing fee or apply for *in forma pauperis* status, and noted that King had failed to take such steps in twelve recently filed lawsuits. (Doc. No. 3 at 1.) If King did not comply within 21 days, the Magistrate Judge warned, the case would be recommended for dismissal for failure to prosecute under Fed. R. Civ. P. 41(b). (*Id.* at 1–2.) King provided no response, and on August 26, 2024, the Magistrate Judge issued a Report and Recommendation (“R&R”) advising for dismissal. (Doc. No. 4.)

King’s objection to the R&R asks that his tardiness be excused, and to extend the applicable statute of limitations by one year, because he has been unable to access legal materials while incarcerated. (Doc. No. 5.) Because King objects to the sole basis of the

Magistrate Judge's conclusion, the R&R is reviewed de novo. 28 U.S.C. § 636(b)(1); D. Minn. LR 72.2(b)(3). Additionally, King's objection is entitled to liberal construction since he is a pro se litigant. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

There are two issues with King's objection. First, King has been directly provided ample instruction on how to pay the required filing fee or proceed *in forma pauperis* in federal court. (Doc. No. 3 at 1–2.) Second, there is no basis to prospectively toll any statute of limitations. For those reasons, King's tardiness will not be excused, and his objection is overruled.

ORDER

Based on the foregoing, and on all the files, records, and proceedings in the case, **IT IS HEREBY ORDERED** that:

1. Plaintiff Arron King's Objection to the Report and Recommendation (Doc. No. 5) is **OVERRULED**;
2. The Report and Recommendation (Doc. No. 4) is **ACCEPTED**; and
3. Plaintiff's Complaint (Doc. No. 1) is **DISMISSED** without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

LET JUDGMENT BE ENTERED ACCORDINGLY

Date: October 10, 2024

s/ Jerry W. Blackwell
JERRY W. BLACKWELL
United States District Judge